



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

PINE CREEK MEDICAL CENTER  
9032 HARRY HINES BLVD  
DALLAS TX 75235-1720

#### **Respondent Name**

Travelers Indemnity Co.

#### **Carrier's Austin Representative Box**

Box Number 05

#### **MFDR Tracking Number**

M4-10-4797-01

#### **MFDR Date Received**

July 23, 2010

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Pine Creek Medical Center was never properly informed in writing by Travelers or their TPA of accessing any contract. Therefore, payment should default to Fee Schedule per Rule 133.4 Pine Creek Medical center was under paid per the APC Rate of 200% for CPT Code."

**Amount in Dispute:** \$2,499.34

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The Provider was properly reimbursed based on the terms of the contract between the Carrier and the Provider through the Carrier's medical contract vendor, Aetna. This amount is based on the Maximum Allowable Reimbursement for the facility fees related to these procedures minus the Provider's negotiated contract discount rate."

**Response Submitted by:** Travelers Companies Inc.

### **SUMMARY OF FINDINGS**

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
October 13, 2009	Outpatient Hospital Services	\$2,499.34	\$2,499.34

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated June 7, 2010

- P08N W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION. BASED ON ADDITIONAL INFORMATION RECEIVED FOR THE SERVICE/PROCEDURE. AN ADJUSTMENT AS BEEN MADE TO THE TOTAL REIMBURSEMENT OF THE ORIGINAL INVOICE PER YOUR PPO CONTRACT

Explanation of benefits dated June 22, 2010

- Z10F 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY. AFTER CAREFULLY REVIEWING THE RESUBMITTED INVOICE. ADDITIONAL REIMBURSEMENT IS NOT JUSTIFIED.

### **Issues**

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

### **Findings**

1. The insurance carrier reduced or denied disputed services with reason code P08N W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION. BASED ON ADDITIONAL INFORMATION RECEIVED FOR THE SERVICE/PROCEDURE. AN ADJUSTMENT AS BEEN MADE TO THE TOTAL REIMBURSEMENT OF THE ORIGINAL INVOICE PER YOUR PPO CONTRACT.” Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on September 22, 2010, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that, pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.
3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
  - Procedure code 29881, date of service October 13, 2009, has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0041, which, per OPPS Addendum A, has a payment rate of \$1,943.12. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,165.87. This amount multiplied by the annual wage index for this facility of 0.9731 yields an adjusted labor-related amount of \$1,134.51. The non-labor related portion is 40% of the APC rate or \$777.25. The sum of the labor and non-labor related amounts is \$1,911.76. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.24. This ratio multiplied by the billed charge of \$4,000.00

yields a cost of \$960.00. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$1,911.76 divided by the sum of all APC payments is 98.65%. The sum of all packaged costs is \$1,803.07. The allocated portion of packaged costs is \$1,778.74. This amount added to the service cost yields a total cost of \$2,738.74. The cost of these services exceeds the annual fixed-dollar threshold of \$1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line is \$1,911.76. This amount multiplied by 200% yields a MAR of \$3,823.52.

- Procedure code 94640, date of service October 13, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0077, which, per OPPS Addendum A, has a payment rate of \$26.58. This amount multiplied by 60% yields an unadjusted labor-related amount of \$15.95. This amount multiplied by the annual wage index for this facility of 0.9731 yields an adjusted labor-related amount of \$15.52. The non-labor related portion is 40% of the APC rate or \$10.63. The sum of the labor and non-labor related amounts is \$26.15. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,800. The outlier payment amount is \$0. The total APC payment for this line is \$26.15. This amount multiplied by 200% yields a MAR of \$52.30.
4. The total allowable reimbursement for the services in dispute is \$3,875.82. The amount previously paid by the insurance carrier is \$1,344.00. The requestor is seeking additional reimbursement in the amount of \$2,499.34. This amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$2,499.34.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$2,499.34, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
March 8, 2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**